

REMARKS

Claims 1-16 are pending in the application, and all claims are rejected. The independent claims are claim 1 and 12.

At section 1, on page 2 of the final Office Action the Office asserts that Salin (U.S. Patent No. 5,628,051) discloses the limitations of the claims. However, for the reasons discussed below in relation to independent claim 1, applicant respectfully submits that the method for delivering short messages to mobile stations discussed in Salin does not disclose or suggest all the limitations recited in the claims. In particular, as discussed more fully below, Salin at least fails to disclose or suggest subscribing to a presence service for receipt of notifications about the attainability of a mobile terminal, as recited in claim 1.

Rejections Under § 102(b)

At section 2, on page 3 of the final Office Action claims 1-2, 4-5, 8-11 and 12-16 are rejected under 35 U.S.C. § 102(b) as anticipated by Salin. Applicant respectfully submit that Salin fails to disclose or suggest independent claim 1, because Salin does not disclose or suggest a step of subscribing to a presence service for receipt of notifications about the attainability of the mobile terminal device, as recited in claim 1. Furthermore, Salin does not disclose or suggest initiating a delivery attempt of a message to the mobile terminal device in accordance with the result of a step of checking the availability information of the mobile terminal device in the presence service for an acceptance of the message by a mobile terminal device, as recited in claim 1.

In contrast with the method claimed in claim 1, Salin discloses a time supervision set in the Home Location Register (HLR), and upon the expiration of a set time the HLR sends notification to short message service centers storing one or more short messages to be transmitted to a subscriber mobile station. See Salin column 8, lines 12-16. As seen in Figures 7 and 8, when the short message service center is notified that a short message is to be transmitted the short message service center sends the short message to a gateway Mobile Switching Center (MSC), which then in turn requests routing information from the HLR of the subscriber to which the short

message to be transmitted is addressed. See Salin column 8, lines 16-21. It is not until the VMSC requests subscriber information from the VLR (i.e. the VLR monitors whether the subscriber has established a connection to the network) that the method disclosed by Salin determines whether the subscriber is reachable, and the message can be delivered. See column 8, lines 54-58; Figure 8. If the subscriber is unreachable the HLR is notified, and another attempt to send the short message will be performed upon the expiration of a set time according to the time supervision. Therefore, in Salin a delivery attempt is initiated every time the set time expires, and the delivery attempt is not based on a subscription to a presence service that provides notifications about the attainability of a mobile terminal device.

According to the method recited in claim 1, when a notification about an unsuccessful delivery attempt is received, a presence service is subscribed to that will provide information when the next delivery attempt should be performed based on the availability information of the mobile terminal device. Salin fails to disclose or suggest subscribing to a presence service for receipt of notifications about the attainability of the mobile terminal device. Instead, Salin only discloses determining the reachability of a subscriber mobile station after a short message delivery attempt has been initiated based on the expiration of a set time.

Furthermore, the method of claim 1 includes a step of initiating a delivery attempt of the message to the mobile terminal device in accordance with the result of a step of checking availability information of the mobile terminal device in the presence service for an acceptance of the message by the mobile terminal device. In contrast, Salin discloses initiating a delivery attempt for a message when the time specified by the time supervision expires, and at this point in the method of Salin it is unknown whether the mobile station is reachable and able to accept the short message. In contrast, claim 1 recites a method in which the availability information of the mobile terminal device is checked to see whether the mobile terminal device is able to accept the message before a delivery attempt of the message is initiated. Therefore, Salin fails to disclose all the limitations recited in claim 1. As such, applicant respectfully requests withdrawal of the rejection to claim 1.

Independent claim 12 contains limitations similar to those recited in independent claim 1. Therefore, for at least the reasons discussed above in relation to

claim 1, claim 12 is not disclosed or suggested by Salin. As such, applicant respectfully requests withdrawal of the rejection to claim 12.

Dependent claims 2, 4-5, 8-11 and 13-16 depend directly or indirectly from an independent claim, and are not disclosed or suggested by Salin at least in view of their dependencies. Therefore, applicant respectfully request withdrawal of the rejections to the dependent claims.

Rejections Under § 103

At section 6, on page 12 of the final Office Action claim 3 is rejected under 35 U.S.C. § 103(a) as unpatentable over Salin in view of Carpenter (U.S. Appl. Publication 2005/0176409). Applicant respectfully submits that Carpenter is not available as a prior art reference under § 103(a). A U.S. patent application publication claiming the benefit of an international application filed on or after November 29, 2000 has the international filing data as its prior art date under 35 U.S.C. § 102(e). See MPEP § 706.02(f)(1) Example 7. The prior art date of Carpenter for § 103(a) purposes is March 24, 2003, i.e. the international filing date of Carpenter. The current application is the U.S. National Stage of International Application No. PCT/IB02/01518 filed May 6, 2002. Therefore, the prior art date of Carpenter is after the international filing date of the current application, and Carpenter is not available as a reference. For at least this reason the rejection of claim 3 should be withdrawn.

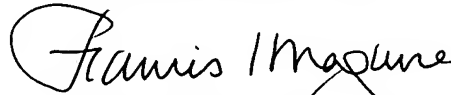
Furthermore, claim 3 depends from claim 1 and is patentable over the cited references at least in view of its dependencies. Therefore, for the above stated reasons applicant respectfully requests the withdrawal of the rejection to claim 3.

At section 7, on page 13 of the final Office Action claims 6 and 7 are rejected under 35 U.S.C. § 103(a) as unpatentable over Salin in view of Rooke et al. (U.S. Patent No. 6,678,361). Claims 6 and 7 depend directly or indirectly from independent claim 1, and are patentable over the cited references at least in view of their dependencies. Therefore, applicant respectfully requests withdrawal of the rejections to claims 6 and 7.

Conclusion

The rejections of the final Office Action having been shown to be in applicable, applicant respectfully requests withdrawal thereof and passage of claims 1-16 to issue is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink that reads "Francis J. Maguire". The signature is written in a cursive style with a large, looping initial "F".

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